

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SUSAN DOOLING, on behalf of herself
and all others similarly situated,

Plaintiffs,

v.

BANK OF THE WEST, and
GSB MORTGAGE, INC.,

Defendants.

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No. 4:11-cv-00576


**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On July 17, 2013, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Plaintiff's Motion to Dismiss Defendants' Counterclaims for Lack of Subject Matter Jurisdiction, or Alternatively, Partial Motion for Summary Judgment (Dkt. 49) be DENIED as to Plaintiff's jurisdictional challenge and GRANTED as to the motion for partial summary judgment, that Defendant take nothing by its second counterclaim of unclean hands, and that Defendant's first counterclaim of unjust enrichment remain as a claim over which this court has jurisdiction.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, Plaintiff's Motion to Dismiss Defendants' Counterclaims for Lack of Subject Matter Jurisdiction, or Alternatively, Partial Motion for Summary Judgment (Dkt. 49) is DENIED as to Plaintiff's jurisdictional challenge and GRANTED as to the motion for partial summary judgment. Defendant shall take nothing by its second counterclaim of unclean hands and Defendant's first counterclaim of unjust enrichment shall remain as a claim over which this court has jurisdiction.

IT IS SO ORDERED.

SIGNED this the 30th day of September, 2013.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE